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CONSTRUCTIVE TRUSTS — MISCONDUCT BY NON-FIDUCIARIES — CAN ONE GUILTY OF HOMICIDE, WITHOUT INTENT TO ACQUIRE PROPERTY THEREBY, OBTAIN TITLE BY HIS CRIME? — A husband, intending to kill a third person, killed his wife. He was convicted of manslaughter, and now claims his share in the wife's property under the statute of distributions. *Held*, that he is entitled to beneficial succession. *Estate of Fox*, 52 N. Y. L. J. 1115 (Surr. Ct., N. Y. County).

What appears to be the weight of authority agrees with a recent Illinois case, which allows one who murdered his victim in order to inherit his property to retain both legal and beneficial title to the property. *Wall v. Pfanschmidt*, 106 N. E. 785 (Ill.). *McAllister v. Fair*, 72 Kan. 533, 84 Pac. 112; *Hill v. Noland*, 149 S. W. 288 (Tex. Civ. App.). See 27 HARV. L. REV. 280. If this view be adopted, there can be no doubt as to the correctness of the principal case. It has been suggested, however, that in all cases of acquisition of property by murder or other wrongdoing a constructive trust should be raised on the property in favor of the innocent heirs or next of kin of the victim. See AMES, LECTURES ON LEGAL HISTORY, p. 310. The principal case intimates, by way of *dictum*, that this relief should be given in case of homicide with intent to acquire property as heir or devisee. See also *Ellerson v. Westcott*, 148 N. Y. 149, 154, 42 N. E. 540, 542. But in the absence of such an intention, it refuses to deprive the slayer of either beneficial or legal ownership. The constructive-trust theory at best involves serious difficulties, for it is rather anomalous that those who have been deprived of a mere chance of succession should be given property to which they were otherwise not entitled. See 27 HARV. L. REV. 280. In situations where there was no intent to acquire property by the crime, it seems that the theory breaks down completely, for the tort analogy upon which this relief must be based requires intentional wrongdoing with respect to the prospective beneficiaries in order to give them a right of action.

CONTEMPT — ACTS AND CONDUCT CONSTITUTING CONTEMPT — PROCURING INSTITUTION OF A FRAUDULENT SUIT ON MANUFACTURED EVIDENCE. — A physician, in collusion with two attorneys, persuaded a man to bring an action for alleged injuries sustained in an accident, and before the action was begun, bandaged the plaintiff to make him appear injured. The complaint was withdrawn before trial. On an information, the physician was tried and convicted of contempt of court. *Held*, on appeal, that the conviction should be reversed. *Melton v. Commonwealth*, 170 S. W. 37 (Ky.).

Acts not done in the presence of the court, which tend to obstruct or embarrass the administration of justice, are constructive contempts. See *O'Neil v. People*, 113 Ill. App. 198; 27 HARV. L. REV. 165. Direct contempts, on the other hand, occur in the presence of the court and are punishable immediately by summary proceedings. In cases of constructive contempts, however, the procedure must be that adopted in this case; that is, the accused must be given a chance to defend himself in a regular trial. See RAPALJE, CONTEMPTS, § 22. To bring a fictitious or fraudulent suit to trial is a direct contempt, and is punishable summarily. *Coxe v. Phillips*, Hardw. 237. See *Smith v. Brown*, 3 Tex. 360; *Lord v. Veasie*, 8 How. (U. S.) 251, 255. To persuade and procure a man to bring such a suit, as in the principal case, equally tends to obstruct justice, and should therefore be punishable as a constructive contempt. It should make no difference that the offender is not an officer of the court, or that he is also punishable for the common-law misdemeanor of obstructing justice. *Coxe v. Phillips*, *supra*; *Bradley v. State*, 111 Ga. 174, 36 S. E. 632. The punishment of such a contempt, furthermore, is in the discretion of the offended court, and their decision is ordinarily not subject to review, except for lack of jurisdiction. *Watson v. Thomas*, 6 Litt. (Ky.) 248; *Shattuck v. State*, 51 Miss. 567; see RAPALJE, CONTEMPTS, § 141.